

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

Bankruptcy Case No.: 15-50792

Diocese of Duluth,

Chapter 11

Debtor-in-Possession.

Diocese of Duluth,

Plaintiff,

Adversary Proceeding No.: 16-05012

v.

LIBERTY MUTUAL GROUP, a Massachusetts Corporation; CATHOLIC MUTUAL RELIEF SOCIETY OF AMERICA, a Nebraska corporation; FIREMAN'S FUND INSURANCE COMPANY, a California corporation; CHURCH MUTUAL INSURANCE COMPANY, a Wisconsin corporation and THE CONTINENTAL INSURANCE COMPANY, an Illinois corporation,

Defendants.

PLAINTIFF'S ANSWER TO COUNTERCLAIM OF FIREMAN'S FUND INSURANCE COMPANY

Plaintiff Diocese of Duluth answers the Counterclaim of Fireman's Fund Insurance Company ("FFIC") seeking declaratory relief (the "Counterclaim") as follows:

1. Paragraph 1 purports to incorporate and reallege paragraphs 1-39 of FFIC's Answer to the Diocese's First Amended Complaint and, as such no response is required. To the extent a response is required, the Diocese admits only the allegations pled in the Diocese's First Amended Complaint, which are incorporated and realleged herein, and otherwise denies FFIC's

responses that purport to deny or otherwise do not admit the allegations in the Diocese's First Amended Complaint.

2. This paragraph states a legal conclusion, to which no response is required or necessary. To the extent that a response is required, the Diocese refers to documents including but not limited to information regarding insurance policies for which FFIC is responsible, the pleadings in the actions alleged against the Diocese, which must be reviewed in their entirety for the precise allegations against the Diocese, and otherwise denies paragraph 2.

3. The Diocese denies paragraph 3.

The paragraphs following paragraph 3 constitute FFIC's prayer for relief and jury demand, to which no response is required or necessary. To the extent a response is required, the Diocese denies that FFIC is entitled to relief it is seeking.

AFFIRMATIVE DEFENSES

First Affirmative Defense

FFIC's Counterclaim (and each cause of action asserted therein) fails to state a claim upon which relief can be granted.

Second Affirmative Defense

FFIC's Counterclaim (and each cause of action asserted therein) is barred, in whole or in part, by the doctrine of waiver, estoppel, quasi-estoppel, unclean hands, and/or laches.

Third Affirmative Defense

FFIC's Counterclaim (and each cause of action asserted therein) may be barred, in whole or in part, by the doctrines of *res judicata* and/or issue preclusion.

Fourth Affirmative Defense

The Diocese reserves the rights to assert other affirmative defenses and places FFIC on notice that the Diocese may amend this Answer to State any further and additional defenses that come to light in the future.

JURY DEMAND

The Diocese demands a trial by jury on issues so triable raised in the Counterclaim.

WHEREFORE, the Diocese denies that FFIC is entitled to any relief whatsoever; prays for judgment that FFIC take nothing and that the counterclaim be dismissed with prejudice, with costs and disbursements to the Diocese; and prays for all attorneys' fees incurred in the defense of FFIC's Counterclaim against the Diocese.

Dated: January 9, 2017

Respectfully submitted,
BLANK ROME LLP

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Counsel for Diocese of Duluth

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Defendants.

CERTIFICATE OF SERVICE

I, Abigail M. McGibbon, hereby certify that on the 9th day of January 2017, I caused a true and correct copy of the foregoing *Plaintiff's Answer to Counterclaim of Fireman's Fund Insurance Company* to be served on the following parties in the manner indicated below.

VIA US Mail

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Dated: January 9, 2016

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